Case No. 04 Civ. 4411 (JSR)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GB FOREST, LLC.,

Plaintiff,

- against -

JACK HIGHT, BRUCE BARRINGTON, LEON BRAUSER, PAUL CAMERON, IRA SIEGEL, HANK ASHER and MARTHA BARNETT,

Defendants.

AFFIDAVIT IN OPPOSITION TO PLAINTIFF'S MOTION PURSUANT TO RULE 12(B)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE FOR DISMISSAL OF THE COMPLAINT

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STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

I, **GERALD BRAUSER**, being duly sworn, deposes and says:

1. I am the Managing Director of GB FOREST, LLC the Plaintiff in the above-referred action.

2. I have thoroughly reviewed the Amended Verified Complaint and I am submitting this Affidavit in Opposition to the Plaintiff's Motion pursuant to Federal Rule of Civil Procedure 12(b)(6).

3. GB Forest, LLC, is a limited liability corporation duly organized and existing

under the laws of the State of New York and, GB Forest, LLC as stated in the Complaint purchased 63,492 shares of Seisint class A preferred stock and currently is the owner and holder of these shares of stock.

4. At the time of the purchase of the stock, Hank Asher made certain representations to me that his company Seisint would be quite profitable and that an independent Board of Directors would manage, operate and run the company. If there wasn't an independent Board of Directors, the Plaintiff never would have made a million dollar investment in Seisint.

5. Mr. Asher also never disclosed to the Plaintiff that there were numerous allegations concerning his past involvement in drug deals. He also failed to disclose that because of these allegations, that he could not operate as a Chief Executive Officer of Seisint because it would prevent Seisint from obtaining government contracts.

6. As the Managing Director of GB Forest, LLC, I relied upon Mr. Asher's representations that his company would be managed properly and that the Board of Directors would not waste corporate assets and would not engage in any type of self dealing. The Plaintiff believed that the members of the Board were independent and would act in Seisint's best interest and not the best interest of Hank Asher.

MEMBERSHIP OF THE BOARD OF DIRECTORS

7. The Members of the Board of Directors are not independent and upon information and belief, were hand picked and selected by Mr. Asher.

8. These Directors have not acted in the best interests of Seisint or independently but rather, have acted as puppets on a puppeteer's strings pulled by Mr. Asher.

9. The most glaring example is the "Giuliani" contract between Seisint and Mr. Giuliani. When I spoke to the President of Seisint, Mr. Paul Cameron, he told me that Hank Asher wanted the Giuliani contract. He told me that he was powerless to object.

10. Mr. Asher delegated Michael Brauser, my nephew, to exclusively negotiate a contract on behalf of Seisint with Mr. Giuliani. In a meeting with Michael Brauser, he specifically told me that Hank Asher had wanted Seisint to employ Giuliani because Mr. Asher believed that Mr. Giuliani could use his governmental influence with the Federal Government to enable Mr. Asher to take an active role in Seisint as a Chief Executive Officer despite the allegations about his drug-dealing.

11. I have attached hereto articles concerning Mr. Asher's alleged drug dealing which the Plaintiff believes was the primary motivation for the Giuliani contract. (Exhibit "A").

12. I was told by Michael Brauser that all the terms and conditions of the Giuliani contract were known and approved by Hank Asher and that the Board of Directors merely rubber stamped and approved the contract.

13. At a Special Meeting of the Board of Directors in which, Michael Brauser was present, the Board of Directors approved the Giuliani contract. (Exhibit "B") The Board of Directors approved the Giuliani contract **without reading it or reviewing it**.

14. One of the members of the Board of Directors, the Defendant Leo Brauser told me that at the time of Special Meeting that some members complained that they were approving a contract that they had not seen or reviewed.

15. The Giuliani contract contains materially and substantially different terms than those which were approved by the Board of Directors. Not a single member of the Board of Directors ever bothered to review the contract or read it at the time of approval by the Board. Upon information and belief, the contract was available to the Board at that time.

16. When it was called to the attention of the Board that the Giuliani contract provided substantial and material penalty clauses for cancellation and termination, the Board did not object or take any action.

17. Michael Brauser specifically told me that the Board did not object to any of the terms of the Giuliani contract and would make the termination payments to Giuliani because the Board would do whatever Hank Asher wished.

18. The members of the Board of Directors, who apparently did not read or review the Giuliani contract before approving it, also apparently never met to discuss or determine why the Giuliani contract had certain material termination clauses different than the terms discussed at the Special Meeting. I have requested minutes of the Board meetings and they have been denied to the Plaintiff.

19. I was told by Michael Brauser that the corporation received **no financial** benefit from the Giuliani contract, but that the Giuliani contract would cost the company in

excess of ten million ($10,000,000.00) dollars just to terminate. When I pointed this out to Michael Brauser, he said to me "What Hank Asher wants, Hank Asher gets".

22. The Board of Directors knew or should have known that there was no benefit to Seisint for entering into the Giuliani contract.

21 The Defendants cannot point to a single benefit that Seisint received as a result of the Giuliani contract. The Defendants as members of the Board of Directors, if they exercised **any type** of due diligence or any type of reasonable care, would have discovered that the terms of the Giuliani contract obligated Seisint to pay a substantial and material amount of money for its termination.

22. Each member of the Board of Directors was negligent in failing to act independently and in failing to read and review the Giuliani contract. The Board of Directors allowed the Corporation to waste corporate assets by allowing the company to enter into a contract for which the company received no benefit.

23. I have also learned from Michael Brauser, that Hank Asher has given to him an additional one million (1,000,000) shares of corporate stock of Seisint, for his role in completing the Giuliani contract and, that Hank Asher also told him to offer to me one-hundred thousand (100,000) shares of Seisint stock to settle this action.

24. Michael Brauser, paid **no** consideration for these additional million shares of Seisint stock. (Seisint is currently being sold for $15.00 per share).

25. It is the position of the Plaintiff that this was not "simply" a bad deal entered

into by the Board of Directors. This was a decision made by the Board of Directors without any type of sound business judgment and was made in bad faith. The Board acted in the best interests of Hank Asher.

26. The members of the Board of Directors of Seisint disregarded their fiduciary duty to exercise independent sound business judgment and not to be influenced by Mr. Asher.

27. This is not a derivative action. The Plaintiff seeks damages against each of these Directors for monetary damages for their failure to act independently; to properly read or review the Giuliani contract prior to their approval; for their failure to exercise independent judgment; for their negligence in voting for a contract which had no benefit to the Corporation, and for their failure to take any type of action when it was discovered that these existed termination payments to Giuliani.

28. Each of these Directors breached or failed to perform their duties as a Director and like Michael Brauser, may have received some type of benefit from Hank Asher for the Giuliani contract.

29. Discovery would reveal as to whether or not the Board of Directors knew or and should have known that Michael Brauser received approximately one million (1,000,000) shares of stock for his part in the Giuliani transaction.

30. Discovery would reveal whether or not the Directors received a benefit for approving the Giuliani contract.

31. If Michael Brauser received one million (1,000,000) shares of stock then

discovery will determine whether the Directors received shares of stock or other benefits for their role in the Giuliani contract.

32. Discovery will show that these Directors acted negligently, in bad faith and in a manner not reasonable to be in the company's best interest.

33. For these reasons, the application of the Defendant should be denied.

Respectfully submitted,

Gerald Brauser

GERALD BRAUSER

Sworn to before me this
20th day of August, 2004

Marisol Velez
Notary Public

MARISOL VELEZ
Notary Public, State of New York
No. 24-4839412
Qualified in Kings County
Commission Expires Nov. 30, ~~19~~ 2005

EXHIBIT A

The Matrix: Unloaded

3834

HANK ASHER'S JUST THE GUY TO SET UP A FUTURISTIC TERRORIST-TRACKING SYSTEM, BUT THE COPS DON'T TRUST HIM

By >> WYATT OLSON

The tech bubble had not yet burst as Hank Asher strode up to the dais in early October 1999 at the Hyatt Regency in Fort Lauderdale. Ambition and high expectations permeated the audience of more than 300 who had packed the banquet hall to kick off the so-called DevCon '99, a gathering of software developers devoted to a programming language named Clarion. Asher, the day's keynote speaker, had become a minor deity in the Clarion world. He'd also struck it rich. Using that language, he'd built the Boca Raton-based Database Technologies Online, or DBT Online, which was primarily a database for law enforcement and private investigators. Need to find a guy? Give DBT Online his name, approximate age, and, *bingo*, you've got a list of addresses and phone numbers and a whole lot more.

Asher had sold his share of the company, garnering more than $100 million. The publicly traded DBT Online now had market capital of $500 million, but Asher had gone on to found a similar database company, eData, which also employed Clarion as a means to parse a database of billions of public and business records. Many in the audience had no doubt read some of the recent news stories about Asher's connection with Bahamian drug smugglers years ago, but in this New Economy of the Internet, there wasn't much reason to dwell on ancient history.

Asher, then 48 years old, wore the casual dress of a techie, a short-sleeved white shirt, unbuttoned at the neck. He sported a scraggly beard of gray and black and slightly disheveled hair that was receding a bit on the front sides. At 5-foot-10-inches, he was burly with a middle-age paunch and a full, round face.

In a baritone voice, Asher told the story of the first time he ran a report on himself at DBT Online: it found both his parents, his siblings, his in-laws, his ex-in-laws, his ex-wife, "her newest victim," all his old addresses, and those of his old neighbors and where they now lived. "Oh my God, what have we done?" he asked himself.

That's a question many have asked themselves after crossing Asher's path. As the brains behind Matrix, the fast-moving Multistate Anti-Terrorism Information Exchange, a proposed 13-state database designed to find links between acts of terrorism and suspects with lightning searches of police, public, and commercial records, Asher recently stepped up as a major figure in the burgeoning homeland security effort.

Then, because of a checkered past, he was forced to take himself out of the game two weeks ago.

It was just the latest development in a long, turbulent personal history involving top-level disputes and allegations of illegal drug trafficking. In recent years, Asher has hassled with the U.S. Drug Enforcement Agency, which temporarily curtailed using DBT Online in 1999 after learning of Asher's alleged ties to drug smugglers. Two former board directors of the company he founded, Seisint Inc.. continued on page 14

Exh. A

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have sued him for allegedly running roughshod over top executives and bribing other board directors to acquiesce to his wishes. Then, on August 29, he was forced to step down as a board member of Seisint, which is in the middle of contract negotiations with the state for the lucrative Matrix contract. The Seisint board is now scrambling to minimize Asher's profile.

According to friends and associates, Asher is a creative genius with an impulsive streak, a master manipulator, adept at corporate gamesmanship, and, some say, more secretive than Citizen Kane. Asher has grown rich turning personal data into a commodity, but he shuns public scrutiny.

"He's not a publicity seeker, by any means," contends Martha Barnett, a longtime friend. "He's not shy, he's just not someone who seeks out or wants to be in the press by nature. He's not a secretive person at all."

But Asher remains elusive to anyone who is not among his personal circle of friends. He lives in a $3 million house in a gated community in Boca Raton. Requests by *New Times* for interviews went unanswered, and many who know him are either unwilling to talk or cannot because they've signed confidentiality agreements.

Asher has been both the greatest asset and greatest liability of the companies he has built during the past decade. He's an entrepreneur who values risk and chafes under limitations. When his first company, Database Technologies, had grown highly successful in the mid-1990s, board directors and investors tried reining him in. Asher reacted like an *enfant terrible*, manipulating employees and directors from behind the scenes. The same struggle has been playing out at Seisint for the past few years. Now, with Seisint poised to play a major role in the nation's anti-terrorism effort, the company has ousted Asher from his director's seat.

If the past is any indication, however, Asher, who remains the majority stock holder in Seisint, still holds great sway over the company.

In introducing Asher at DevCon '99, Bruce Barrington, who created the Clarion program and is now a board director for Seisint, claimed that Asher had departed his home state of Indiana because his "efforts were underutilized," according to an article at the time in the trade journal *Clarion Magazine*. Asher, however, set the record straight at the podium: He was fired from his last job in Indiana on the grounds that he couldn't get along with people and that his ideas didn't work. He paused a beat after the admission. "I think I have proven that my ideas do work," he declared. The audience roared at the droll gloss over, but Asher's thorniness has indeed been as prominent as his innovation.

Henry Edward Asher was born on May 9, 1951, and raised on a farm near Valparaiso, Indiana, which is 60 miles from downtown Chicago. He briefly attended Valparaiso University, a small, private college. Although he didn't graduate, each year the college awards the Hank Asher Scholarship, which is funded each year by a Valparaiso resident who wishes to remain anonymous. The scholarship is intended for students interested in computer science.

He moved to South Florida during the early 1970s and began the first of numerous entrepreneurial ventures. In 1975 he incorporated three companies based in Wilton Manors: Asher Painting; Asher Waterproof Coatings, Roofing and Painting Corp.; and Technological International Inc, which changed its name in 1977 to Asher International Corp. His brother, Charles A. Asher, who graduated from Indiana University School of Law in 1977, served as an officer for the third company.

Through a friend, Asher met Judith Redden in 1977, and the two lived together on and off in Wilton Manors from then through 1982. The couple apparently traveled frequently to the Bahamas and Hawaii. In March 1979, Redden gave birth to the couple's first child, Eliza Asher. Asher was "thrilled" with the arrival of his first-born, according to documents filed in 1993 by the state seeking child support payments from Asher. Caroline Asher was born in July 1982.

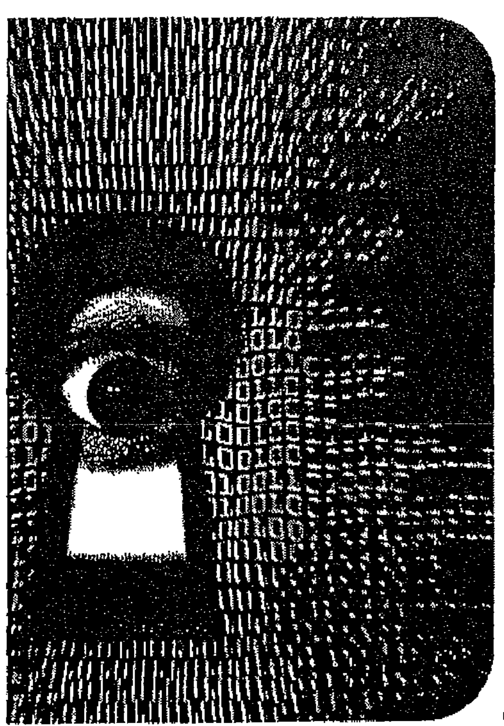
Asher's business ventures unraveled that year, and he closed them down.

Sometime during this period, Asher, who was also a pilot, bought a home on Great Harbour, a small island in the Bahamas about 85 miles south of Nassau. There he was to strike up a lifelong friendship with fellow homeowner F. Lee Bailey, one of the nation's premier defense attorneys. Bailey first gained prominence in 1961 by taking on the case of Sam Sheppard, who had been convicted seven years earlier of killing his wife, and he went on to handle a series of high-profile cases.

Great Harbour was separated only by a small channel from Cistern Cay, a tiny isle with a landing strip that gained notoriety as a drug smuggling base in the 1970s. Robert Vesco, a fugitive American financier, bought Cistern Cay in 1978 for $180,000. Vesco, who had been charged in 1976 with stealing $224 million from a mutual fund, became a figure in the Watergate scandal after it was revealed that he had illegally contributed $200,000 to the 1972 Richard Nixon reelection campaign. Vesco is also alleged to have assisted Carlos Lehder, an infamous Colombian drug smuggler, in laundering money through Nassau banks.

Cocaine dealing seemed virtually out of control in those days. By the early 1980s, no less than Bahamian prime minister Lynden Pindling had been caught up in allegations of assisting smugglers on Cistern Cay (he was never charged). In 1983, NBC

ASHER IS A CREATIVE GENIUS WITH
MANIPULATOR MORE SECRET



the walkway roof to the house. Bailey contended that the fire was set because he was trying to clean up the island of drug smuggling. (Bailey declined to be interviewed by *New Times*.)

"My understanding is, and the position always was, that Asher was not criminally involved with these people," says a former Miami DEA agent who was involved in the case. "It's kind of like a bunch of American expatriates living in a foreign country in a place that has no movie theaters, one bar, and they're all pilots, so they're all going to probably know each other."

News accounts, however, have described Asher as an "unindicted co-conspirator" in a $150-million cocaine-smuggling case, and the Florida Department of Law Enforcement has, because of Asher's drug involvement, expressed serious

broadcast a story alleging that Pindling and other government officials were being bribed by a Cistern Cay operative to keep quiet about the island's flourishing drug trade. Bailey called NBC's assertions "wildly inaccurate and recklessly reported," and he offered to sue the network on behalf of the Bahamian government.

The Drug Enforcement Agency (DEA) torqued up its efforts in the 1980s to stem the flow of drugs into the United States via the Caribbean. Agents in the DEA's Chicago office began investigating Roger W. Nelson, a Chicago-area pilot and professional skydiver who owned a home on Cistern Cay. Aware that the feds were developing a case against him and a handful of his Chicago friends, Nelson moved to mitigate the prosecutor's wrath by striking a deal with agents in the Miami DEA office. Enter F. Lee Bailey.

reservations about his connections to a company that was to be entrusted with sensitive law enforcement data.

After Bailey met with the DEA, "an agreement was reached that DEA would try utilizing any information obtained by Asher in an effort to clean up Great Harbour," the Tribune explained. Asher came up with little useful information, however, and so he and Bailey recruited five other men, including Nelson. The Miami DEA office began using them as informants, even though four of the so-called Cistern Five were under investigation by the Chicago DEA. They were given special codes for communicating with agents and infrared night scopes for surveillance of smugglers. In September 1995, a Cistern Five tip led to the seizure of 1,133 pounds of cocaine valued at $24 million. (Despite his cooperation, Nelson was indicted in Chicago for drug smuggling in 1986 and spent time in jail after pleading guilty. He died earlier this year in a skydiving accident.)

I AN IMPULSIVE STREAK, A MASTER
[T]IVE THAN CITIZEN KANE.

In 1985, Bailey approached the Miami DEA office and proposed helping the agency capture drug shipments being smuggled from the Bahamas to Florida. Bailey "offered to make available a man he identified as Hank Asher, a pilot and one-time smuggler who lived on Great Harbour, an island near Cistern Cay," according to a *Chicago Tribune* article that was based on federal court documents. "Asher wanted to sell his home but could not because drug-smuggling activity had depressed market values." Bailey told agents that his own interest was "primarily to make the island a more marketable item and second, to punish those involved in the burning of his house." One former DEA agent recalls that Bailey owned a waterfront condo, which was connected to a boat slip by covered walkway. Someone set the boat on fire, which then followed

Asher's role concerning the Cistern Five was inconclusive, but it did put him on the DEA radar, or more precisely — and ironically — in its database.

Like many South Floridians who had been, rightly or wrongly, caught up in the flourishing South Florida drug trade of the 1980s, Asher moved on. He founded Database Technologies in Pompano Beach in 1992, the company that begat his wealth and future firms. A 1996 *Miami Herald* article about the company described Asher at the time as "a burned-out computer consultant without a paycheck." Asher told the newspaper, "There was a six-month period when we first started DBT that I was living off borrowed funds from my family."

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As a consultant, Asher had begun using the Clarion language, which was popular with Internet development mavericks at the time. "Clarion is a language used for Windows software development, primarily for business applications," says David Harms, who publishes *Clarion Magazine.* "Typically, Clarion developers are not corporate developers. I'd go so far as to characterize the majority of Clarion users as independent developers, a lot of small shops, a couple people." Clarion is useful for developing specialized software that would only be useful to, say, dental offices. The language was especially appealing because users did not have to pay royalties for new software that was sold, Harms said.

By the 1990s, thousands of separate databases containing names, addresses, and phone numbers, and a plethora of other personal details had been amassed by law enforcement agencies, public bureaucracies, and private businesses. But many of the databases had been designed with custom software and were never intended to interface with other systems. Asher's quantum leap was in writing programs to connect these databases in order to parse useful information. The categories of information that can be retrieved are numerous: aliases, historical addresses dating back 30 years, dates of birth, relatives, associates, neighbors, phone numbers, licenses, car and boat registrations, property transactions, land holdings, professional licenses, arrest records, criminal and civil court records, concealed weapon permits, and many others. The data are useful if, say, police need to find the female owners of black Buicks within a 50-mile radius of a particular address. Or perhaps a private detective is tracking down someone using only the first name Wilbur, who has a pilot's license and at one time worked for a bank. Those three details are enough to come up with a short list of names and current contact information. The rest is gumshoe work. (Service is limited to approved users, such as detective agencies and insurance investigators.)

Asher collected and preserved his own cache of databases. In addition, he designed search protocols for confidential databases kept and maintained only for law enforcement agencies. By 1996, his company's name had been shortened to DBT Online, but the firm had amassed 180 computers filling two buildings, which generated reports from billions of records from more than 700 federal, state, and local agencies.

DBT's utility and its success were aided by the suddenly colossal presence of the Internet. The speed and precision of DBT's electronic reports were a highly saleable commodity on the World Wide Web, and that enticed several high-profile investors, including Jack Hight, who had cofounded Electronic Data Systems Federal Corp. in the 1960s. "I personally believe that Hank is an outstanding businessman," Hight testified recently in a civil lawsuit. "There are not a lot of people that I know of that can take an idea from practically nothing and make it into a company, a successful company."

Hight eventually convinced Kenneth G. Langone, a cofounder of Home Depot, to invest in DBT, although Langone had walked away from an earlier chance to become involved with Asher because "he struck me as being utterly unstable," Langone stated in a deposition earlier this year.

Martha Barnett, an attorney who represented Asher while he was at DBT, became a friend. "He's a very creative person who understands the ability of technology to meet the needs of people who need data," she says. "He has created products for the commercial side to help people make money or to plan sales or programming or the million things you can do. I think he is probably a mathematical genius."

Barnett presents the unblemished picture of Asher, the dynamic innovator. "Hank's been able to attract very sophisticated computer specialists, technology specialists, to the companies that he's been involved in," she says. "He has been the creative genius behind the products. He's hands on in the programming, the software and the hardware. He has not just thought it up and told someone to go do it." As for his personality, she describes him as "a very open, gregarious, friendly individual."

But Asher can be notoriously moody. One Fort Lauderdale businessman who dealt with him in the 1990s says, "Sometimes he was nice, and other times he was just unbelievable. He'd come unglued, a different personality completely."

He could also be rash, a trait that has at times blurred the boundaries between his personal and work lives. Take, for example, his two-month marriage to Teryn McCullough, who had been Asher's employee at DBT. According to court documents, the couple married on October 16, 1996, and was separated a month later. When she sued for divorce on November 20, she was unemployed and pleaded with the judge for emergency support from her estranged husband. Asher "let me go from employment in his company because his previous fiancée is the [chief financial officer] and he did not want her to know that he was dating me," McCullough claimed in court documents. (A prenuptial agreement contained a stipulation that infidelities on the part of either would have financial consequences, including possible stock awards or givebacks.)

It was perhaps Asher's impulsive workplace behavior that began rubbing some DBT board directors the wrong way as they prepared to take the company public on the New York Stock Exchange in the mid-1990s. Asher, who was not only a major stockholder and board director but also DBT's president and chief executive officer, was a by-the-seat-of-the-pants innovator, not a navigator. Some directors believed the best way to steer the DBT ship was with a formal management structure headed by experienced executives. That arrangement didn't leave enough room for such a larger-than-life personality as Asher.

Apparently seeing the writing on the wall, Asher founded a new company, Indar, in 1997, and signed a confidentiality agreement with DBT stipulating he was not to compete with DBT or hire away its employees. Indar was also an online database company, and Asher established it virtually across the street from DBT's Boca Raton offices. This put Asher in the odd position of competing against DBT, a company for whom he still served as an officer and director.

A rancorous battle erupted between Asher and DBT directors, and he was ousted as president and CEO in May 1998, though he retained his director's seat and stocks. Not until a year later would another shock wave force him to sell the stock. Asher was resentful of the heave-ho and continued to disrupt company operations, according to a law suit filed by DBT three years later.

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Matrix continued from page 17

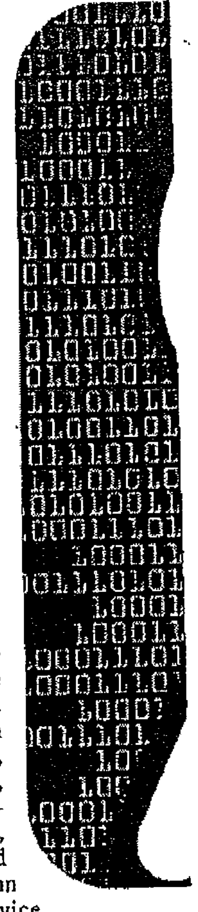
DBT executives were alarmed that Indar was stealing its employees, so much so that it threatened litigation against Asher. In a letter to Asher dated September 4, 1998, DBT's attorney accused Asher of disparaging the company and its management, soliciting employees to join Indar, and actually hiring some of them. The problem was magnified, the attorney wrote, because of Asher's "past history of intimidation and harassment of DBT employees." Asher was forced out of his DBT board seat two months later.

The same year Asher left DBT, 1998, the company contracted with Florida to purge the state's voting rolls of felons, who are barred from voting under a provision of the Florida constitution. In the aftermath of the contested presidential election in Florida, the company, by then owned by Atlanta-based Choicepoint, was criticized for having identified legitimate voters as felons. Many of them were black, a demographic group that largely voted for Al Gore in 2000.

By 1999, the only tie left between Asher and DBT was his stock holding, but it was enough of a connection to send the company reeling. In May of that year the FBI and DEA suspended their contracts with DBT because of Asher's Bahamian past. During a routine inspection of the DEA's Miami office, a five-year-old memo concerning Asher came to light, according to an article at the time in the *Miami Herald*. Written by DEA security officer Jerry Castillo, the 1994 memo stated that Asher was "known to Miami Enforcement Group 10 and is listed in NADDIS [DEA's internal intelligence computer system] as a pilot with suspected Bahamian drug connections."

Just as Seisint would one day be forced to do, DBT management launched a damage control effort by distancing the company from Asher. One company spokesman even denied that Asher founded DBT, rather he'd founded a company that was later merged into DBT. The board forced Asher to sell his 23 percent share of stock, for which he received $117.5 million from an October public offering. In addition, three board directors with ties to Asher, including his sister Sari Zalcberg and Jack Hight, were forced out.

Asher took his money and set the stage for battle with a new set of board directors.



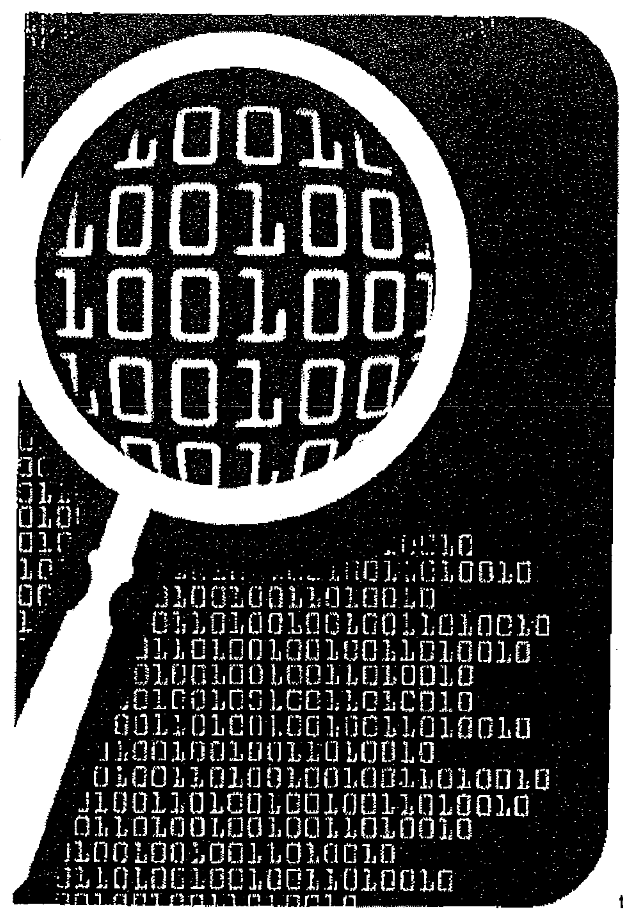
When Seisint announced Asher's resignation late last month, the company did its best at spin, calling the move "part of a management transition plan initiated 18 months ago." In fact, the company has struggled for years with its strong-willed founder, and there's little reason to believe that Asher, still the major shareholder, won't continue to wield great influence within the company.

In October 1999, BankAtlantic Bancorp, which is a holding company of BankAtlantic, entered into an alliance agreement with Asher and Seisint. Bancorp invested a large sum in Seisint, and, as a gesture of goodwill, Seisint bought BankAtlantic stock. Alan B. Levan, who was chairman and CEO of Bancorp, and John Abdo, the company's vice chairman, then became directors on Seisint's board. Levan and Abdo, however, more or less remained outsiders on the board, which also included Jack Hight, Martha Barnett, and Bruce Barrington, the creator of Clarion.

The new directors soon found that Asher routinely transferred personnel to his pet projects, despite the objections of company management, according to court documents. Seisint fell behind in an important project as a result, and the company experienced a cash-flow crisis by the summer of 2001. In October of that year, Levan issued a confidential memo to the board that began, "Speaking on behalf of Jack Abdo and myself, we believe there is a pattern of dysfunctionality and deceit here that creates real liability for our founder and the Board of Directors.

"Hank Asher, without the authority of the Board, is hiring and firing, spending

ONE COMPANY SPOKESMAN EVEN DE
SAYING HE ONLY FOUNDED A COI



ber 11 attacks and proposed a database system for tracking terrorists. With $1.6 million appropriated by the Florida Legislature, the company entered into a pilot program with FDLE for the Matrix system. The full search power of Matrix won't be in place until multiple states have included their databases. That may take awhile. When FDLE head Daryl McLaughlin learned of Asher's past from a newspaper reporter, he called for an official investigation before further committing to Matrix. The inquiry hasn't been concluded, but McLaughlin calls Asher's removal from Seisint's board "a positive development."

Barnett says she doesn't believe that Asher's history — whatever the truth may be — denigrates his accomplishments at Seisint. "He developed law enforcement tools because he was concerned about criminals on the street, about kids being kidnapped," she said during an interview before Asher's removal. "He's developed some of his tools because he saw a problem and he wanted to solve it."

corporate funds, committing important resources of the company and intimidating and harassing its officers and directors, including the CEO.

"Make no mistake, there will be shareholder litigation. The full truth of Hank's background, his activities and behavior at his prior company and this company will be investigated and come to light."

Levan urged, as he had in the past, that the board remove Asher from any role in the company. When the board declined to do so, the two men resigned and sued Asher and the directors soon afterward for mismanaging Atlantic Bancorp's investment. The lawsuit is pending.

Seisint took another blow in August when Asher's Bahamian ghosts rose again. Asher had approached Florida Department of Law Enforcement officials soon after the Septem-

The company, she argues, has grown bigger than its founder. "The story ought to be about this great company in the state of Florida that's doing unique, cutting-edge things, saving lives, saving money, creating products that are beneficial, as opposed to focusing on an individual and what may or may not have happened in his life 20 years ago. Seisint is not about Hank Asher anymore."

As for the rest of the Hank Asher story — stay tuned. The world hasn't heard the last of Boca Raton's restless cybermagnate.

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Contact the author to discuss the story:
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Inventor works to redeem himself

■ DATABASE

[illegible]

[illegible] Hank Asher was [illegible] by years of negative publicity and intense public [illegible]. The climax came in August, when Asher walked [illegible] from the Matrix [illegible] could proceed unencumbered by its designer's infamy.

Asher, now 53, made peace with himself.

[illegible] "I've done much more good than harm," he [illegible].

[illegible]

[illegible] Asher is the [illegible]. The former head of [illegible] U.S. Secret Service, a [illegible] law enforcement officials who [illegible] Asher's database [illegible] John Walsh, host of [illegible] "America's Most Wanted," [illegible] Asher's [illegible].

[illegible] public [illegible] his quest to redeem his past with powerful innovations and financial benevolence that have aided the hunt for criminals and the safe return of missing children.

"I have a great admiration for what he's doing, both in finding missing children and in coming up with creative solutions to terrorism, as well as owning up to his mistakes," [illegible] said. "People do a lot of things in life. It's a question of what you can do to make up for it, and Hank has more than [illegible]."

WHY HE SMUGGLED

In his first interview on the drug allegations, Asher said he got into smuggling for the adrenaline rush.

"It seemed like an adventure," he said, chain-smoking Marlboro Lights between bites of nicotine gum at his mansion next to the Royal Palm Polo fields. "I had no idea of the hideousness of drugs."

He got mixed up in the business after "retiring" at age 30 to the Bahamas. Asher moved there after selling the paint contracting business he started at 18 and built into what a 1975 Sun-Sentinel article described as "apparently unmatched anywhere" in the South Florida high-rise market.

In Great Harbour Cay, Asher said, he attracted attention with his plane and his speedboat. Drugs were rampant, he said, and so were offers for easy money flying the contraband into the United States. Asher said he resisted the offers — until one came from a group of older men with impressive tastes who "ran in social circles that appealed to me."

He said he agreed to do them a favor after having recklessly spent his paint company proceeds; he borrowed money from them.

An FDLE investigation details how far that favor went. The probe, launched in August and completed in September, was meant to resolve the longstanding rumors of Asher's past, particularly at a time when [illegible] Matrix were threatening to pull out over the unsettling questions.

The report concluded that Asher piloted up to seven planeloads of cocaine from Colombia into the United States in 1981 and 1982, the largest involving 700 kilos flown into an Okeechobee County ranch. It also detailed Asher's reported involvement in an alleged U.S.-sanctioned plot to assassinate Nicaraguan President Daniel Ortega in the mid-1980s — a scheme that went nowhere.

Asher now says he always thought the Nicaraguan plot was just a bunch of talk. And he describes his drug smuggling as seven incomprehensible days he will always regret.

'I FEEL ... REMORSE'

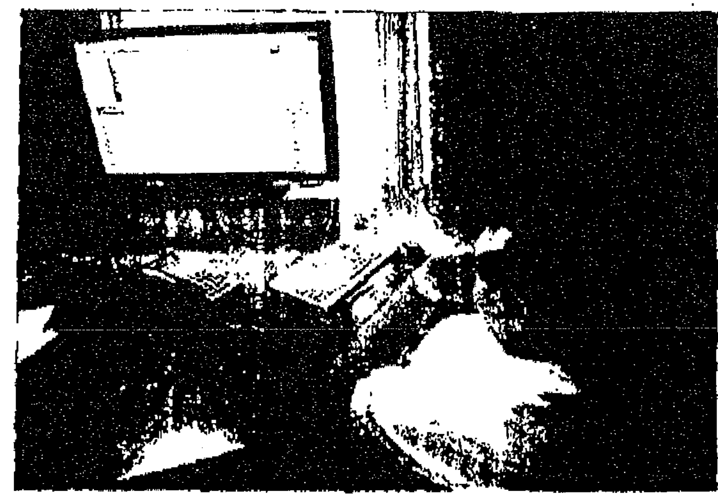
"I feel great remorse for my contribution" to drugs, he said. "I think it caused a [illegible] depression."

Asher woke up to what he was involved in, he said, when he watched one of his cohorts shoot a cat in the head for sport and later learned the man had raped a woman.

In the time since, he added, he has not been involved with illegal activity — an assertion supported by his clean criminal record and the lack of evidence uncovered by the FDLE report, which calls Asher "a legitimate businessman."

In the months after he quit smuggling, Asher began down his road to redemption, his supporters say, helping the U.S. government deter drug trafficking in the Caribbean.

The effort, documented in the FDLE report, began when famed criminal defense attorney F. Lee Bailey, who also owned a home on Great Harbour Cay, approached Asher. Bailey told FDLE investigators that he and Asher had concocted a plan that had Asher misleading traffickers into believing their arrests were imminent and Bailey negotiating plea deals that took the smugglers out of the business.



DESIGNER: In the 1990s, Hank Asher invented a database, dubbed the Matrix, which is used for counterterrorism and law enforcement investigations. Asher asked that his face not be shown. Staff photo/[illegible]



YOUNGER DAYS: Hank Asher is shown in front of a South Florida condo for a 1975 Sun-Sentinel article about his paint contracting business. Staff file photo

But it wasn't until 1992, with computer innovations credited with making criminal investigations faster and more efficient, that Asher became a respected ally in law enforcement.

"Hank Asher has done more to facilitate intelligence and information-sharing for police in this country than anyone I've ever known," FDLE director James T. "Tim" Moore said at his 2003 retirement party. "He's a patriot, a true friend."

Asher, a high school dropout who said he largely taught himself computers, started DataBase Technologies Inc. in Boca Raton in 1992.

There, he devised AutoTrack, a database that combined billions of commercially and publicly available documents onto one network so they could be instantly accessed. Searches that had taken weeks and involved dozens of databases were condensed into a single query completed in seconds.

The tool proved invaluable to police investigations.

"Every investigation we have ever had since the early '90s has used his program," said Phil Ramer, special agent in charge of the Florida Department of Law Enforcement's Office of Statewide Intelligence. "He transformed law enforcement, no question about it."

Even then, rumors were swirling about Asher's drug smuggling.

Federal, state and local agencies interested in AutoTrack researched Asher's background and came up with a 1987 Chicago Tribune story. The article, citing court records in a drug case, quoted Bailey as saying he was working with a pilot and former drug smuggler named Hank Asher to reduce trafficking in the Bahamas.

"We looked into" the allegations, John Walsh said. "Clearly, everybody did."

He and [illegible] could find any signs Asher had been involved in anything untoward since, Walsh said.

Still many public officials were bothered by the perception of associating with a former drug smuggler.

"But the question was," Ramer said, "do we want to use this technology we'd never had before, or do we close our eyes and say we're not going to use it" because of old allegations?

Most agencies went ahead with AutoTrack, but several officials and agencies distanced themselves from the entrepreneur with the ugly history.

Though Moore gushed praise for Asher at his retirement party last summer, for example, in the FDLE report, Moore called Asher's smuggling activities "despicable" and denied reports that he and Asher were friends. And [illegible], amid more media reports of the smuggling stories, the FBI and Drug Enforcement Agency dropped their AutoTrack contracts.

But Asher continued to impress a host of credible crime fighters. In addition to Giuliani's and Walsh's association with Asher, former FDLE special agent Bill Shrewsbury, former DEA Deputy Administrator James Milford and the Secret Service's Stafford left law enforcement to serve in high-level positions at Asher's database companies.

Walsh was impressed by the genius of Asher's innovations, but also by his generosity. For 10 years, Asher has given Walsh's nonprofit National Center for Missing and Exploited Children free, unlimited access to his database systems.

"He did it because he deeply cared," said the center's executive director, Ernie Allen. "I can tell you on a very personal level that people in American law enforcement have a great trust and confidence in Hank Asher."

That confidence grew after the Sept. 11 attacks, when out of what Asher called sheer horror, he created the Matrix.

The information-sharing database merges commercially and publicly available records with sensitive investigative data. Only law enforcement officers with security clearances are allowed to use it. Queries result in names, phone numbers, addresses and histories on possible terrorists, pedophiles and criminals, as well as photos and comprehensive backgrounds on a suspect's network of family and friends.

The federal government has committed $12 million to make the Matrix available across the country. But in the 18 months before government money was available, Asher used $20 million of his own and gave the government free, unlimited access to the technology.

"What was done at Hank's businesses after 9-11 is as patriotic as anything I've seen in my life," said Miami attorney [illegible], a former federal Watergate prosecutor [illegible] being melodramatic. I have no doubt that in time when his system has something to do with the fact that there hasn't been another terrorist attack."

But once again, Asher's past intruded. As 13 states lined up to join the Matrix last summer, the smuggling stories resurfaced, prompting several agencies to reconsider.

Asher then [illegible] and [illegible] the project. Asher quit the board of his company, Seisint Inc., put his stock in a blind trust and announced he would have no decision-making link to the Matrix.

"I did it for the good of the country," Asher said.

Others may argue that he did it for the money. If Matrix is successful, Seisint — and as a major stockholder, Asher — stands to make millions.

[illegible], among others, thinks Asher's motivation is altruistic.

"Maybe it's the guilt he feels for what he did when he was young, but he's deeply dedicated to trying to help people," the former mayor said. "He's a man of extreme talent, and he's used that talent for good."

These days, Asher is using his talents to help just one person, his sister, [illegible] Zeichberg, who has brain cancer.

Asher has assembled a team of scientists and doctors in a quest for a cure, bankrolling the effort with $5 million in cash.

If nothing else, Zeichberg said, her big brother's knack for doing the impossible gives her faith.

"Hank has put hope in big, bold capital letters for me," she said. "He makes things happen."

Nicole Sterghos Brochu can be reached at [illegible] sentinel.com or 561-243-6603

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FROM DRUGS TO DATABASES

Boca man, with cocaine-smuggling past, wins praise for counter-terrorism technology.

BY NICOLE STERGHOS BROCHU
STAFF WRITER

The counter-terrorism database is so efficient at analyzing billions of records, so comprehensive in finding links between people and events that some investigators believe it could prevent another attack like 9-11.

Although some intelligence experts are awed by the potential of the so-called Matrix network, others are uncomfortable with the man who built it.

Hank Asher — a Boca Raton multimillionaire called a patriot by a former Watergate prosecutor, consulted and admired by former New York City Mayor Rudy Giuliani — *once* smuggled millions of dollars worth of cocaine.

Asher avoided detection and was never charged with a crime during what he calls "the hazy period" of his life. The statute of limitations has long since elapsed on drug-running activities he admits spanned eight months in 1981 and 1982. Those reckless days, he told the *South Florida Sun-Sentinel*, drove him to depression and drug and alcohol abuse.

■ DATABASE CONTINUES ON 17A

To Frank
From G. Brauer

MINUTES OF SPECIAL MEETING OF THE BOARD OF DIRECTORS OF SEISINT, INC.

A Special Meeting of the Board of Directors of Seisint, Inc. was held on December 9, 2002 at 5:15 p.m. at 6601 Park of Commerce Boulevard, Boca Raton, Florida 33487. The following directors were present and accounted for: Jack Hight, Martha Barnett, Leon Brauser, Ira Siegel, Hank Asher, Mitchell Silverman, Harold Bernstein and Paul Cameron, constituting a quorum of the Directors of the Company. Also present were Brian Neill, Ken Schwartz, and by invitation Michael Brauser.

The Meeting was called to order by the Chairman, Jack Hight, bringing the first and only order of business before the Board, that being discussion of a potential business arrangement with the Giuliani Partners. The floor was then turned over to Mr. Silverman to report upon the progress made by the Giuliani Partners Committee. Mr. Silverman explained that significant progress had been made, explaining the deal particulars as follows:

a. That the business arrangement had a 2 year term.
b. That during such 2 years Mayor Giuliani and his group would be promoting Seisint's services to government and private entities.
c. That in return for such services Seisint would pay $2 Million dollars per year, with the payment of $1 Million upon signing and the anniversary of the contract, and quarterly payments of $250,000 during the term. Such payments being a non-refundable advance on commissions to be earned for sales generated by Giuliani Partners in accordance with the schedule provided the Board.
d. That the Giuliani Partners would receive 800,000 warrants with a strike price of $10.00 that decreased as commissions were earned by the Giuliani Partners.
e. That if the arrangement was unsuccessful in the first year, as determined by the amount of revenue generated by Seisint, than Seisint had a right to terminate the contract without additional payments to be made.

Thereafter the Board engaged in a discussion regarding the deal particulars, and as based upon the presentation of the Committee, and the discussion amongst the Board, a motion was made, seconded and approved, with Mrs. Barnett abstaining from such vote, that management be authorized to reduce to terms in a definitive agreement the consulting transaction with the Giuliani Partners as described by the Committee.

RESOLVED, that management is hereby authorized to take all necessary actions it deems reasonable and prudent to reduce to terms and enter into a consulting transaction with the Giuliani Partners in substantial conformity with the terms described by the Committee.

Exh. B